

**VERGARA SHOT
BY FEDERALS ON
WAY FROM JAIL**

Texas Officer Reports That
American Was Victim
of Treachery.

LURED TO ISLAND;
BEATEN INSENSIBLE

Kept Two Days in Prison
and Then Carried Away
and Executed.

HIS BODY DISAPPEARS

Governor Colquitt Again Asks
Bryan from Whom He Shall
Demand Reparation.

Austin, Tex., Feb. 27.—Captain J. J. Sanders, of the Texas Rangers, reporting to Governor O. B. Colquitt late today, made the direct charge that Clemente Vergara, an American ranchman, was shot to death while in the custody of Mexican Federal troops, ostensibly on the way from the jail at Hidalgo to the Federal headquarters in Piedras Negras, Mexico.

Captain Sanders reports that on the morning of February 13 five Federal soldiers, commanded by Apolonio Rodriguez, crossed the Rio Grande to an island belonging to the United States, took eleven horses belonging to Clemente Vergara and then called to Vergara to come to the island on the pretext that Rodriguez wished to pay for the animals.

Vergara and a nephew crossed in a skiff, and when they reached the Mexican side the Federals pounded Clemente insensibly with the butts of their revolvers and then carried him to Hidalgo.

Shot Two Days Later.

The capture was effected on Friday, according to Captain Sanders, and on Sunday Vergara was taken from the Hidalgo jail and started, under guard, ostensibly for Piedras Negras, but was shot to death after proceeding a short distance.

Vergara, Captain Sanders says he was informed, was born in Webb County, Texas, and had a pass to cross the river signed by Sheriff Sanchez, of Webb County, and Garza Galan.

Governor Colquitt sent this telegram to Secretary Bryan to-night:

"I do not want to invade Mexico with a military force. I asked your cooperation in maintaining the rights and dignity of this state and your consent to allow me to send state rangers, who are peace officers, in pursuit of those who are constantly transgressing our laws.

"Again I ask the President to advise me what is recognized by him as the constituted authority in Mexico. I repeat the inquiry, and ask whom you recognize as constituted in the State of Nuevo Leon, as I desire to present requisitions to the proper authorities of that state for the surrender of fugitives from Texas justice, notably those responsible for the death of Clemente Vergara."

Based on Treaty Rights.

The telegram explained that this request was based on rights of extradition. Governor Colquitt claims were granted to border states in a treaty between the United States and Mexico.

Attorney General B. F. Looney in an opinion given to the Governor to-day holds that requisition may properly be made for Rodriguez and the five men with him who are charged with the seizure of Vergara. Such requisition, he holds, should be "the military chief of the district where Vergara was captured."

As Vergara was killed outside of Texas, Mr. Looney says, the Governor could not requisition on a charge of

Continued on second page, fourth column.

ARREST RAMPOLLA VALET

Accused of Selling Costly Cope
—Suspected of Will Theft.

Rome, Feb. 27.—Giuseppe Caretti, valet to the late Cardinal Rampolla, was arrested to-night by order of the Crown Prosecutor and taken to prison. He is charged with having stolen several articles belonging to Cardinal Rampolla, including an expensive cope, which he is said to have sold to a prelate in the Vatican.

Since the death of Rampolla the valet had been under suspicion of being implicated in the disappearance of the box which it was supposed contained the last will of the Cardinal. An investigation by the police is said to have shown that Caretti had been buying lottery tickets and otherwise spending money in sums not justified by his earnings.

MRS. DRUMMOND MUST PAY

British Income Tax Required on
Funds for Field Children.

[By Cable to The Tribune.]
London, Feb. 27.—Mrs. Maudwin Drummond, formerly Mrs. Marshall Field, Jr., has lost all hopes of not paying a \$50,000 assessment income tax on money remitted from America for the maintenance of the three grandchildren of Marshall Field, for to-day the High Court of Appeals upheld the decision of the commissioners and Justice Horridge.

The court held that the money received was "foreign possession." Mrs. Drummond, as guardian of the children, is liable to account for the money to them, and therefore liable to the income tax. The court was divided, as Justice Joyce was of the opinion that the remittances were voluntary contributions, and also that the Illinois trust funds were not "foreign possessions," but the majority of the judges dismissed the appeal.

**CRISIS IN PORTUGAL
NEARS ITS CLIMAX**

Strike of Railroad Employees
Surprises Government—
Dynamite Freely Used.

Madrid, Feb. 27.—Reports were in circulation here to-night that the Revolutionary Socialists were masters of the situation in Lisbon, but complete interruption of the telegraph service prevented confirmation. Travellers who arrived here to-day by automobile from Lisbon said the strike of the railroad employees took the government by surprise. Large numbers of the strikers, including several anarchists, had been arrested, they said, but the most dangerous anarchists were still at liberty.

When the travellers left Lisbon on Thursday night troops occupied strategic positions in the streets, and from the outer quarters of the city frequent sounds of firing were heard. The tourists declared that bombs were being exploded throughout the city and that dynamite had been so freely used that the public services were paralyzed. They reported also that they witnessed a cavalry charge upon a mob.

The Foreign Office received advice to-night from Lisbon that the Portuguese government was considering the forcible dissolution of the trades unions. The report added that there were frequent clashes during the day between the police and the strikers.

BAYONETS GUARD 3 MEN

Guardsmen March Prisoners
from Armory to Cells.

Many in Brooklyn last night witnessed the unusual spectacle of three men being marched through the streets prisoners, surrounded with the fixed bayonets of soldiers.

During the ball which followed the review of the 6th Regiment in its armory at Marcy avenue and Lynch street, Brooklyn, Martin Hirsch, a member of Company L, broke into the armory, accompanied by two friends, and demanded to know why he was under charges.

When Hirsch and his friends became violent Captain Hubert W. Eldert called a corporal's guard of eight men, who fixed their bayonets and line up the trio in the company room, and, after the arrival of Police Commissioner Maxwell, escorted them along Marcy avenue and Division avenue to the Clynner street police station.

Hirsch, who is nineteen, lives at No. 822 Flushing avenue. His companions were Samuel Schenberger, twenty-one, salesman, of No. 121 Pulaski street, and Harry Cohen, eighteen, a cutter, of No. 13 Tompkins avenue. All three were locked up on charges of being disorderly persons.

The review of the regiment was the first under Colonel Ernest Jamnicky.

**WHITNEY INDICTED
AS WHITE SLAVER**

Three Counts Returned Against
Millionaire Accused by Miss
Genevieve Hannan.

San Francisco, Feb. 27.—J. Parker Whitney, Placer County millionaire and San Francisco clubman, was indicted on three counts to-day by the federal grand jury for violation of the Mann white slave act. He is charged with having brought Genevieve Hannan from Seattle to San Francisco for immoral purposes.

Whitney exhibited to the grand jury letters from Miss Hannan, by which he intended to show that he held out no matrimonial promises to her when she accompanied him from New York on a trip across the country.

Miss Hannan, who says she lives in New York, left here for Chicago by way of New Orleans last Tuesday.

**HOMELESS 1,000
STORM CHURCH**

Mob Demands Shelter for
Night — Routed by
Police Squad.

SEEK TO USE PEWS
AS THEIR COUCHES

I. W. W. Agitators Said to Have
Told Throng of Church
Lodging.

Encouraged by Industrial Workers of the World speakers who called a mass meeting in Rutgers Square yesterday afternoon and outlined the scheme for them, a thousand homeless men descended on a small group of parishioners gathered at a prayer meeting in the Second Avenue Baptist Church, near 19th street, last night, burst through the doors into the building, and were repulsed only after a squad of reserves from the 5th street police station appeared in answer to a hurry call from Police Headquarters.

The prayer meeting was well under way, with possibly a hundred persons in the audience, when John Sayre, the sexton, saw the main doors fly open and the advance guard of the mob outside swarm into the vestibules. Taken completely off his guard, the sexton valiantly tried to stem the human tide single handed, but could scarcely keep his feet in the swirling mass of men that fought and jammed their way inside.

"What do you want?" shouted the sexton.

"We want to go to bed," said one of them. "They told us in Rutgers Square that we could stay here to-night and we're going to."

Sayre lost no time in wriggling his way to the doors, which he finally dragged together and locked. About sixty persons, however, had gotten inside and their clamor gave rise to the rumor among the parishioners inside that they were being besieged by a big gang of East Side "gunmen."

The Rev. R. F. Y. Pierce, the pastor, then appeared in the vestibule. While he pleaded with the intruders to go out quietly, the crowd outside shouted and beat upon the doors, demanding admittance. Believing that the lives of those of his flock present might be endangered, the pastor instructed the sexton to call Police Headquarters and the reserves were sent down.

It was learned later that inflammatory speeches by the Industrial Workers of the World men advising a general assault on the churches and court-houses, "where they could go to bed," was responsible for the outbreak, and specially designated, it is said, the Second Avenue church as a place where the homeless would be welcome. So effective was the businesslike appearance of the police reserves that no one was arrested.

AUTO THIEVES BUSY AGAIN

Broker's \$3,000 Car Stolen Al-
most Under Chauffeur's Eyes.

Automobile thieves stole another valuable car last night. At 9:30 o'clock Charles Landsiedel, of No. 104 West 52d street, chauffeur for Milton F. Untermyer, a broker, who lives at No. 140 West 71st street, left his employer's limousine standing in front of No. 1787 First avenue.

Landsiedel was gone only a few minutes, but when he returned the car was gone. The stolen machine was a \$2,000 Packard. It was blue in color, with a gold stripe, and carried the license tag, 24795 N. Y.

U. S. MAY SUE PENN. R. R.

Separation from Norfolk &
Western Line Desired

Washington, Feb. 27.—The Department of Justice has been looking into the relations between the Pennsylvania Railroad Company and the Norfolk & Western, with the idea of effecting a separation of the two roads or bringing suit under the Sherman anti-trust act. In the opinion of department officials the two roads are competitive.

The Pennsylvania Railroad, owned on January 1, 1913, \$1,782,000 common and \$1,320,000 preferred Norfolk & Western stock. On October 11, 1912, the outstanding stock of the Norfolk & Western was given as \$120,122.00.

It is said that Pennsylvania officials do not regard the Norfolk & Western as a competitive line within the meaning of the Sherman law.

It is said that a successful suit might directly affect rates on bituminous coal from the West Virginia and Pennsylvania fields to New York and other Eastern communities.

PLAN TO CRUSH "CAUSE"

Mrs. Ward Said to Favor Un-
official Women's Parliament.

London, Feb. 28.—The Socialist weekly, "The New Statesman," publishes a report to-day that Mrs. Humphry Ward, with a view to overthrowing the suffrage movement, is organizing a sort of unofficial women's parliament, or grand council, to be composed of women and such Liberal and Unionist members of the House of Commons as can be persuaded to join it, to sit permanently and prompt and advise the government on all legislative matters concerning women. Mrs. Ward is a pronounced anti-woman suffragist.

MRS. BUFFUM CONVICTED

To Die Week of April 5 for
Poisoning Husband.

Little Valley, N. Y., Feb. 27.—Mrs. Cynthia Buffum was to-night found guilty of murder in the first degree for poisoning her husband, Willis Buffum, who died on August 24. The verdict carried a recommendation for mercy. Justice Brown at once pronounced the death sentence, fixing the week of April 5 for her execution in the electric chair at Auburn. She will start for Auburn to-morrow morning.

An appeal will be immediately placed before the Court of Appeals for a stay of execution and a new trial.

LIKENS FRANK TO BEILISS

Prisoner's Wife Says Race Pre-
judice Caused Conviction.

Atlanta, Feb. 27.—Racial prejudice against her husband, Leo M. Frank, under death sentence for the murder of Mary Phagan, is blamed for his conviction in a statement issued to-day by Mrs. Frank.

The recent "ritual murder" trial of the Russian Jew, Mendel Beiliss, is cited as an exact parallel to the prosecution of Frank. The statement concludes with the prediction that "a vile conspiracy will ultimately lay itself bare to condemn and destroy those responsible."

**SHIELDS ILL; HEART
AFFECTED BY WORK**

Aged Commissioner Confined to
Brooklyn Home—Anxious to
Resume Duties.

John A. Shields, the United States Commissioner who has served as an officer of the United States District Court for fifty-nine years, is confined to his home in Brooklyn with an attack of heart disease, brought on by overexertion and his refusal to take a rest when ordered to do so by his physician.

It was rumored about the Federal Building yesterday that his condition was serious, but at his home, No. 300 Scherhorn street, Brooklyn, last night a Tribune reporter was told that he was better and would be all right with a few days more rest.

Commissioner Shields has not been at his desk for a week, and at his house it was said that the enforced absence was making him restless. "He's like a caged lion," it was said, "he is so anxious to get out and get back to his work, but he will have to stay in for a few days more. The doctor says he will be all right with a short rest. He was not well some time ago, and if he took the rest then that he should have taken this trouble probably would not have developed. As it was he overexerted himself, with the result that his heart became overtaxed. The doctor says he is in no danger if he will only rest."

Mr. Shields, who was born in 1810, became an assistant in the office of the clerk of the United States District Court when he was fifteen years old. New York then had 500,000 inhabitants. In 1839 he was admitted to the bar and became United States Commissioner. In 1876 he became deputy clerk of the court, and clerk in 1888, which place he held until a short while ago, when new legislation left him the choice of relinquishing one place or the other, so he retired from the clerkship. Mr. Shields has been described as one of the youngest men for his years in the country, for though he is nearing seventy-five he is more active than most men at sixty, his erect figure and snow white beard and hair making him a noticeable figure in any gathering.

His book on "Federal Courts and Practice" is considered a standard work.

T. R.'S BODYGUARD SLAIN

Patrick Dore Shot in the Back
—Arrest Made.

[By Telegram to The Tribune.]
Muskegon, Okla., Feb. 27.—Patrick Dore was shot at Westville, Okla., late to-day, the bullet striking him in the back and killing him instantly as he walked down the street. Tandy Folsom is under arrest charged with the shooting.

Dore was formerly one of the most prominent Republican politicians in Oklahoma, and later became a Progressive. He was Roosevelt's personal bodyguard at the Chicago convention. Dore had been postmaster at Westville, and owned the electric light plant and stores in that place.

**MRS. PETER GERRY
RESCUES HORSE**

Society Beauty in Police Court to
Prosecute Owner of Ill-
Treated Animal.

[From The Tribune Bureau.]
Washington, Feb. 27.—In defence of a horse, Mrs. Peter Goetz Gerry, wife of the Representative from Rhode Island, and even better known as "the beautiful Matilde Townsend," whom artists have loved to paint, appeared in a police court to-day.

The defendant in the case had been detected beating a horse which, according to Mrs. Gerry, was far too enervated to respond even to the cudgelings of its trainer.

The testimony of Mrs. Gerry—she is an expert horsewoman—was sufficient to induce the court to order the dilapidated animal turned over to the Humane Society and to heed her eloquent plea that no further punishment be inflicted upon the owner.

**MOTHER DISINHERITS
W. C. RHINELANDER**

Son Cut Off by Father for
Wedding Servant Gets
Only \$1,000.

RESIDUE GOES TO
HIS TWO BROTHERS

No Word of Reproach in Will,
Nor Is Family Skeleton Aired,
Except by Inference.

William Copeland Rhinelander, son of the late William Rhinelander and Matilda Cruger Oakley Rhinelander, members of an old and well known family in New York, whose father cut him off with an income of \$5,000 a year six years ago to show his resentment because his son married a servant of the household, is practically disinherited by the terms of his mother's will, which was filed in the Surrogate's Court yesterday.

Mrs. Rhinelander died on February 13 at No. 18 West 48th street. Her will was dated February 17, 1910. There was no word of reproach of the disowned son in the document, nor anything to suggest the family skeleton except the unequal distribution of her estate among her sons, William Copeland Rhinelander, T. J. Oakley Rhinelander and Philip Rhinelander. The disowned son receives only \$1,000 in the will of his mother. The residue of the estate is divided between the two other sons.

This is perhaps the first public intimation that the mother shared her husband's feeling toward her son, who not only contracted a distasteful marriage when he made one of the family's servants his wife, but erred again, in the eyes of his family, when he took as his second wife a waitress. He is now living in Schenectady.

William Rhinelander left an estate valued at \$500,000. He gave the greater part to his sons, T. J. Oakley and Philip. A month after William C. Rhinelander married Margaret McGinnis, in 1876, the father made a will disinheriting him. Even to the time of his death he never became reconciled to the son. However, he made a codicil to his will in which he authorized his executors to pay William C. Rhinelander an income of \$5,000 a year. William C. Rhinelander brought suit to break the will, but the late Justice Triunf upheld the will in 1900, putting aside the contention that Mr. Rhinelander was not mentally competent to execute the will.

At the time William C. Rhinelander was preparing to fight his father's will, just after the senior Rhinelander's death, in 1907, the son was found living in a tenement house in Albany with his second wife, who was Miss Juliette Kathleen Maier, whom he married in 1897. She had been a waitress in a restaurant in East 23d street. It was said that he was paralyzed and almost blind.

No one seems to know what has become of the two children that were born of the first marriage. Rhinelander in living out of New York following his first marriage, was carrying out the instructions of his father, who gave him an allowance on that condition. His grandfather, William Copeland Rhinelander, for whom he was named, died in 1878, and cut him off from a fortune of \$1,000,000 because of his first marriage.

In Albany the scene of the Rhinelander family lived in penury. A little more than three years ago his wife sued him for a separation, but the matter was adjourned.

One of the spectacular incidents in the life of William Copeland Rhinelander was his shooting of John Drake, his father's attorney, in 1884. He was never prosecuted.

The value of the estate left by Mrs. Matilda Cruger Oakley Rhinelander, from which the ostracized son receives only \$1,000, is not stated.

**ROOF AVALANCHE
KILLS GIRL; 4 HURT**

One Caught in Snow Slide from
New Haven Gas Plant
Is Dying.

New Haven, Feb. 27.—A great mass of ice and snow, thawed by to-day's mild weather, slid from the roof of the New Haven Gaslight Company's plant, in East street, late to-day, and buried five persons, killing one girl instantly, injuring another so seriously that she may die and causing severe injuries to the other three.

Marie Riccio, eleven years old, was killed; Lena San Juan, ten years old, is in a hospital dying; Andrew De Lucia, an employee of the company, was severely bruised and cut; John Seco, another employee, and a girl whose name has not been learned, were severely injured and taken home. The girls were picking coal from ash heaps when the snow slid.

Col. Roosevelt's Party Reports.

Rio de Janeiro, Feb. 27.—Colonel Theodore Roosevelt and his party have arrived in the vicinity of José Bonifacio, after having traversed the hinterland of San Luis de Cáceres. No great difficulties were encountered, and many observations of interest were made. The party discovered a river heretofore unknown.

Colonel Roosevelt and all the members of the contingent are in excellent health.

PACIFIC HOME FOR SCHWAB

\$1,000,000 To Be Spent on
Estate in California.

[By Telegram to The Tribune.]
Los Angeles, Feb. 27.—It was reported in real estate circles to-day that Charles M. Schwab intends to build a magnificent country home in Alhambra, twenty miles east of Los Angeles.

He will lay out an extensive estate, including golf links, polo grounds, tennis courts, outdoor bowling alleys and an open air swimming pool.

It is said that the cost will be \$1,000,000 or more. Mr. Schwab and party expect to reach Pasadena to-morrow.

FEAR FOR BRITISH SAFETY

Deputation Asks Asquith for
National Military Training.

[By Cable to The Tribune.]
London, Feb. 28.—One of the most notable deputations ever constituted waited on Premier Asquith yesterday to urge the need for the adoption of a system of national military training. The deputation was entirely non-partisan, and among the members were Lord Roberts and two other distinguished field marshals, Sir Evelyn Wood and Lord Grenfell, as well as two distinguished sailors, Admirals of the Fleet Sir Gerard Noel and Sir Edward Seymour. These five men urged the need for compulsory training from the point of view of the safety of Great Britain and the maintenance of the empire. Mr. Asquith asserted that the fears of the deputation were groundless. He saw no adequate ground for apprehension that the capacity of this country to render a thoroughly good account of itself in case of an invasion was less than at any previous time in Great Britain's history.

**TAFT SUGGESTS
N. Y. POLICE HEAD**

Captain Harbord, Former
Officer in Philippine Con-
stabulary, the Man.

[From The Tribune Bureau.]

Washington, Feb. 27.—Former President William Howard Taft, in an address before the National Geographic Society to-day, commended Captain James G. Harbord, of the United States Army, a former colonel in the Philippine Constabulary, to Mayor Mitchell for the office of Police Commissioner of New York. The suggestion was made in connection with a declaration that Colonel Goethals should be promoted to be Major General and made chief engineer of the army. Regarding this Mr. Taft said:

"The strain through which Colonel Goethals has passed only those know who were associated with him in the work. He has long regarded the chief of engineers as the most important office that he could hold.

"Why, then, should not this government provide, when the canal is completed, for his elevation to the rank of major general, and by a special provision allow the President, when the vacancy occurs, to name him as chief engineer of the army?"

"I know that it has been proposed that he be spared to help New York out as Chief of Police. With his natural executive ability, with his diplomacy and tact, I doubt not he would do as well there as any man who has not had the peculiar experience necessary to complete success in that difficult place. Nor do I minimize its importance or its dignity, for no higher duty could fall to any one than to maintain the good order and the law abiding condition of a great metropolis of five million of people. But why not keep Colonel Goethals in the place he likes?"

"I have personal knowledge of Colonel Harbord's great tact, capacity and training for such a police service, and I do not hesitate thus publicly to recommend him to Mayor Mitchell should Colonel Goethals be treated as I have suggested, and should no other available New York man fill the requirements."

In discussing the Panama Canal Mr. Taft declared that "the great power that brought us victory" in the sea level and lock-type controversy was "the direct influence of President Roosevelt."

Speaking on the Mexican situation, Mr. Taft advised strongly against intervention, and declared that no effort ought to be omitted to prevent such a catastrophe.

**MILITANTS MUST
BEWARE OF DOG**

Owners of Highland Mansions
Take Drastic Measures to
Protect Their Property.

[By Cable to The Tribune.]

London, Feb. 28.—Recent activities of the suffragettes in their campaigns of destructive propaganda in Scotland are being met by remarkable precautions. The Mackintosh of Mackintosh has initiated a system of dog guards at his home, Moy Hall, Inverness, where some of the finest Jacobite relics are kept.

The large number of sporting dogs usually kept in the Moy Hall kennels have been distributed around the mansion, and they raise the alarm on the approach of any person during day or night. Since the Mackintosh began this system of dog guards other owners of houses have decided to do the same, and almost every Highland mansion and shooting lodge now has its dog guard.

**TRIBUNE MEN
FINED; WILSON
PARDON UPHELD**

\$500 Penalties; Jail Threat
Unless They Tell Source
of Exclusive News.

CASES WILL GO TO
SUPREME COURT

President's Right to Coerce
by Pardon Is the Big
Point at Issue.

JUDGE CITES JEFFERSON

Rich Smugglers, Whose Crime
Inspired Action, Free Under
Suspended Sentence.

Sustaining the right of the President to issue a pardon to a person who has not been convicted of a crime, Judge Hand in the United States Court yesterday imposed a fine of \$500 each on George Burdick, financial editor, and William L. Curtin, ship news reporter, of The Tribune, for contempt in refusing to disclose the source of their information in connection with the exclusive publication in The Tribune of stories on the Littauer and Heitmeyer smuggling cases.

In addition, Judge Hand said that Mr. Burdick and Mr. Curtin might be committed if, on appearing before the present or subsequent grand juries, they fail to purge themselves of contempt by testifying fully as to their sources of information in the two cases referred to.

In effect Judge Hand, in his opinion, holds that the refusal of Burdick and Curtin to accept the pardon of the President took from them any privilege they might claim of refusing to answer the questions on the ground that it might tend to incriminate them. The President had a right to issue such pardon, even if the defendants had not been convicted of a crime, he contended. Consequently, the defendants were in contempt by their refusal to answer the questions put to them, even though they pleaded that it would incriminate them.

Judge Hand's decision will be appealed to the Supreme Court, but the method of procedure has not yet been decided upon. Two ways are open. One is for Henry A. Wise, counsel for the defendants, to apply for a writ of error, which will act as a stay; the other, for the two defendants to appear before the grand jury and still refuse to disclose their news source.

In the latter case they would be committed, and Mr. Wise could then take the case to the Supreme Court on a writ of habeas corpus.

Advance Pardon Question.

United States Attorney H. Snowden Marshall said yesterday that there would be nothing further done in the case for a couple of weeks at least.

In the mean time he and Mr. Wise will hold a conference to decide on the most expeditious way in which the case can be taken to the higher court and the questions involved presented squarely to it.

When the case reaches the Supreme Court it will be the first time in the history of this country that the question of the right of the President to grant a pardon to a person not convicted of a crime will have been presented to that tribunal.

Mr. Wise was disappointed at Judge Hand's decision, but he refused to comment on it yesterday.

"I do not think a lawyer should discuss his cases in the columns of the newspapers," he said. "What he has to say should be said in his arguments before the courts. It would be unbecoming for me to discuss Judge Hand's opinion. All I can say is that I am disappointed. My clients will seek by appropriate means to have the decision reviewed. In the mean time I have nothing more to say."

The case is one that has excited unusual interest. There was no question as to the accuracy of the smuggling stories printed exclusively in The Tribune. What the District Attorney wanted to find out was where the information came from, and Messrs. Burdick and Curtin refused to tell on the ground that it might tend to incriminate them. Mr. Marshall then obtained a pardon for them from the President freeing them from any crime they might have committed in answering the questions.

Mr. Burdick and Mr. Curtin refused to accept these pardons, on the ground that they had committed no crime, and it is on this particular point that Judge Hand devotes most of his opinion, he holding that it undoubtedly is the one question in the case.

His contention is that the President has a right to grant a pardon to persons who have never been convicted, and the precedents he quotes to sustain his contention go back to a time when President Jefferson issued a pardon to a witness in the trial of Aaron Burr, although the question of privilege was not raised at the trial itself.

He says, however, that it shows that this practice was used as early as 1807.

Judge Hand's Opinion.